

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 572 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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ANWARBHAI MANDBHAI MAHIDA

Versus

INVESTIGATION OFFICER

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Appearance:

MR AD DESAI for Petitioners

MR MAULIN RAWAL ADDL PUBLIC PROSECUTOR for Respondent No. 1

MR DG CHAUHAN for Respondent No. 3

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 03/08/1999

ORAL JUDGEMENT

#. Rule. Mr.Rawal, learned APP and Mr.Panchal for Mr.DG Chauhan, learned advocate for respondent No.3 waive service of rule. At the request of parties, this matter is finally heard.

#. The petitioners herein are the accused persons in FIR

lodged before the Nadiad Police Station vide C.R.No : 116/99 by Kapilaben wife of Vitthalbhai Chaturbhai Patel alleging that the petitioners are involved in offences under Section 363, 294(A), 506(2) and 114 of IPC alleging that the petitioners have kidnapped Trupti daughter of the complainant. The petitioners therefore challenge this FIR on the ground that Trupati is and was major on the date of the alleged incident. The petitioner No.1 and Trupti were in love and therefore, they voluntarily decided to get married and accordingly they got married on 5th February, 1999. Trupti has sworn in an affidavit in this regard and the marriage is registered before the Registrar of Marriages at Ahmedabad.

#. A Habeas Corpus petition came to be preferred being Special Criminal Application No : 616 of 1999 before this Court which came to be decided on 26th July, 1999 wherein Trupti stated that she has not been illegally detained. That she has converted her religion to Islam of her own free will. Their Lordships also recorded their satisfaction, that Trupti is not labouring under any duress or undue influence and ultimately that petition came to be rejected. In this light of the matter, the complaint cannot be entertained because Trupti has sworn affidavit before this Court, besides, her affidavit sworn earlier, has also been produced, so also a copy of Memorandum of Marriage. The complaint if seen, indicates that the complainant came to know through friend of Trupti - Rekha that Trupti has gone with Anwar in rickshaw. When and why Trupti went is clear from her affidavit and their subsequent conduct. Under these circumstances, the complaint deserves to be quashed, hence the following order.

#. FIR No : 116/1999 is hereby quashed. Rule is made absolute.

Date : 3-8-1999 [A.L.Dave,J.]

\*kailash